IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.440 OF 2004
IN
SUMMARY SUIT NO.1254 OF 2004

Chanda V.Kandla .. Plaintiff

Vs.

M/s.Gini & Jony Apparels P.Ltd. .. Defendants

Mr.S.K.Jain for the plaintiff

Mr.Deepak Chitnis for the defendants

CORAM : S.U.KAMDAR, J
DATED : 31ST AUGUST, 2005

P.C.:

1. The present suit is filed on two dishonoured cheques each for the sum of Rs.5 lacs. It is the case of the plaintiff that the cheques were issued on 4.7.03 and were deposited on 7.7.03. The cheques were returned saying 'Account closed'. The plaintiff claims that the said cheques were issued by the defendant for goods sold and delivered. However, defendant contends that infact the said cheques were duly signed and kept in the premises and they are misplaced from there. In support of their contention defendant has relied

upon letter dt.6.4.98 addressed by him to the Manager Oriental Bank of Commerce saying that the said cheques are misplaced. Apart from the said letter there is no other document to indicate that the said cheques were misplaced. No police complaint is filed and all the steps are taken only after notice is issued for demanding the payment on 15.7.03. Police complaint is also filed subsequently. There is no defence whatsoever in the present suit. However, still with an intention to give an opportunity to the defendant to defend the suit, I direct the defendant to deposit a sum of Rs.5 lacs within 8 weeks failing which plaintiff will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 1 year and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection

within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.